

STATE OF INDIANA

COUNTY OF MARION

IN THE MATTER OF:

Timothy Scott Harris

Petitioner

Type of Agency Action: Enforcement

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BEFORE THE INDIANA

COMMISSIONER OF INSURANCE

FILED

JUL 24 2023

**STATE OF INDIANA
DEPT. OF INSURANCE**

CAUSE NO.: DOI-2212-002513

21951-AD22-1101-113

FINAL ORDER

On May 25, 2023, the Administrative Law Judge, Carrie T. Ingram, filed her Findings of Fact, Conclusions of Law and Non-Final Order in the above-captioned matter.

1. The Department served Findings of Fact, Conclusions of law, and Non-Final Order and Notice of Filing Non-Final Order on Petitioner by mailing the same to his email address of record.

2. The Department has complied with the notice requirements of Ind. Code §4-21.5-3-17.

3. Neither party has filed an objection with the Commissioner regarding the Administrative Law Judge's Findings of Fact, Conclusions of Law and Non-Final Order, and more than eighteen (18) days have elapsed.


Therefore, the Commissioner of Insurance, being fully advised, now hereby adopts in full the Administrative Law Judge's Findings of Fact, Conclusions of Law, and Non-Final Order and issues the following Final Order:

IT IS THEREFORE ORDERED by the Commissioner of Insurance:

1. Denial of Petitioner's resident producer license application is AFFIRMED.

Under Ind. Code §4-21.5-5-5, Petitioner has the right to appeal this Final Order by filing a petition for Judicial review in the appropriate court within thirty (30) days.

ALL OF WHICH IS ORDERED by the Commissioner this 24 day of July, 2023.


Amy L. Beard, Commissioner
Indiana Department of Insurance

Copies to:

Timothy Scott Harris; tim@agentsforhope.com

Samantha Aldridge, Attorney
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, IN 46204
saldridge@idoi.in.gov

NONFINAL ORDER

Pursuant to IC 4-21.5 this Nonfinal Order is not final and shall be presented to the ultimate authority for issuance of a final order.



STATE OF INDIANA OFFICE OF ADMINISTRATIVE LAW PROCEEDINGS

Ultimate Authority: Commissioner of the Department of Insurance

FILED: May 25, 2023

Timothy Scott Harris
Petitioner

Administrative Case No.: DOI-2212-002513
Underlying Agency No.: 21951-
AD22-1101-113

v.

Department of Insurance
Respondent

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND NONFINAL ORDER

An evidentiary hearing was held on this matter on January 31, 2023, at 9:00 AM via telephonic conference. Administrative Law Judge (ALJ) Brian Hahn presided over the hearing and ALJ Carrie Ingram observed the hearing. Prior to rendering Findings of Fact, Conclusions of Law, and a Nonfinal Order in this matter, ALJ Hahn became unavailable to serve as the ALJ in this matter. The Office of Administrative Law Proceedings (OALP) Director reassigned this matter to ALJ Ingram to issue Findings of Fact, Conclusions of Law, and a Nonfinal Order pursuant to Indiana Code 4-21.5-3-27(e).

At the evidentiary hearing on January 31, 2023, Timothy Scott Harris appeared telephonically, and without counsel. The Department of Insurance (DOI) appeared telephonically by Counsel Samantha Aldridge, and Investigator Sara Tolliver.

Timothy Scott Harris and Sara Tolliver testified at the evidentiary hearing. Petitioner offered no exhibits for admission and Respondent offered four exhibits for admission at the evidentiary hearing. The following exhibits were admitted at the evidentiary hearing:

1. Respondent's Exhibit 1, DOI's denial of Petitioner's Application to engage in the business of insurance, 1 page, admitted without objection.
2. Respondent's Exhibit 2, Petitioner's Application for Written Consent to Engage in the Business of Insurance, 7 pages, admitted without objection.

3. Respondent's Exhibit 3, the Chronological Case Summary for case number 55D03-1803-F5-000321, 10 pages, admitted without objection.
4. Respondent's Exhibit 4, Judgment and Sentencing Order for case number 55D03-1803-F5-000321, 1 page, admitted without objection.

On March 3, 2023, Respondent filed its proposed findings of fact and conclusions of law. Based upon the evidence presented at said hearing, ALJ Ingram now makes and issues the following Findings of Fact, Conclusions of Law, and Nonfinal Order.

FINDINGS OF FACT¹

1. On or about August 24, 2022, Petitioner applied for a resident producer license with the Commissioner of the Indiana Department of Insurance (hereinafter "Commissioner").
2. Petitioner disclosed his felony convictions on his license application.
3. On or about September 21, 2022, Petitioner submitted to DOI a "Short Form Application for Written Consent to Engage in the Business of Insurance Pursuant to 18 U.S.C. § 1033 and 1034."
4. On or about November 7, 2022, the Commissioner denied her consent for Petitioner to engage in the business of insurance in Indiana due to two felony convictions against Petitioner.
5. Petitioner's felony convictions stem from an incident that happened on or around March 2, 2018. At that time, Petitioner had a relapse from alcohol use and had moved home with his mother. Petitioner continued to secretly drink alcohol while also taking medication to assist him with his relapse. Petitioner was drinking alcohol and Petitioner's mother found Petitioner in the basement. Petitioner caused injury to his mother and drove away in his mother's car.
6. On or about March 2, 2018, Petitioner was criminally charged with Domestic Battery Resulting in Serious Bodily Injury, a Level 5 Felony; Auto Theft: theft of entire vehicle, a Level 6 Felony; Theft, a Class A Misdemeanor; and Disorderly Conduct: engages in fighting or tumultuous conduct, a Class B Misdemeanor.
7. On or about August 2, 2018, Petitioner was convicted of Domestic Battery Resulting in Serious Bodily Injury, a Level 5 Felony, and Auto Theft: theft of entire vehicle, a Level 6 Felony. The charges of Theft, a Class A Misdemeanor, and Disorderly Conduct: engages in fighting or tumultuous conduct, a Class B Misdemeanor, were dismissed.

¹ Conclusions of Law that can be adopted as Findings of Fact are incorporated as such.

8. Petitioner has been sober for approximately five years. Petitioner spends much of his free time devoted to Alcoholics Anonymous (AA). Petitioner attends daily AA meetings and chairs an AA meeting approximately one time per week. Petitioner has sponsees that he speaks with at least two times per week. Petitioner finds that he is able to stay sober when he is helping others out.
9. Petitioner has mended his relationship with his mother.
10. Petitioner is employed at Agents for Hope as an account executive and recruiter.

CONCLUSIONS OF LAW²

1. OALP has jurisdiction over both the subject matter and the parties to this action and the Commissioner is the ultimate authority. Ind. Code § 27-1-15.6-12(d); Ind. Code §§ 4-15-10.5-12 and 13.
2. This hearing was held in compliance with the Administrative Orders and Procedures Act of the Indiana Code, Ind. Code § 4-21.5-3. Ind. Code § 27-1-15.6-12(d).
3. The person requesting an agency act has the burden of persuasion and the burden of going forward. Ind. Code § 4-21.5-3-14(c). Petitioner requests that the Department issue a license, therefore Petitioner bears the burden of proof.
4. Proceedings held before an ALJ are *de novo*, which means the ALJ does not—and may not—defer to an agency's initial determination. Indiana Code § 4-21.5-3-14(d); *Ind. Dep't of Natural Res. v. United Refuse Co., Inc.*, 615 N.E.2d 100, 104 (Ind. 1993). Instead, in its role as factfinder, the ALJ must independently weigh the evidence in the record and may base findings and conclusions only upon that record. *Id.* At a minimum, the ALJ's findings "...must be based upon the kind of evidence that is substantial and reliable." Indiana Code § 4-21.5-3-27(d). "[S]ubstantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support the decision..." *St. Charles Tower, Inc. v. Bd. of Zoning Appeals*, 873 N.E.2d 598, 601 (Ind. 2007).
5. Despite the *de novo* review, Indiana Code 27-1-15.6-12(d) limits the ALJ's review to a determination of whether the Commissioner's actions were reasonable.
6. A person who has been convicted of any criminal felony involving dishonesty or a breach of trust may not engage in the business of insurance unless that person has written consent of the state insurance regulatory official authorized to regulate the insurer. 18 U.S.C.A. § 1033(e). In Indiana, that person is the Commissioner. See Ind. Code § 27-1-15.6-12.

² Findings of Fact that can be adopted as Conclusions of Law are incorporated as such.

7. The Commissioner may refuse to issue a license to an individual who has been convicted of a felony. Ind. Code § 27-1-15.6-12(b)(6). The language of the statute authorizes the Commissioner to use discretion.
8. Petitioner's five years of sobriety after his felony convictions is certainly commendable. However, Petitioner's two felony convictions from 2018 stemming from his relapse in alcohol use that led him to injure his mother and steal her car are certainly sufficient grounds for the Commissioner to deny him a license.
9. While Petitioner showed sincere remorse and has maintained sobriety for the past five years, it is not unreasonable for the Commissioner to deny his license because of the felony convictions.
10. Petitioner has not met his burden of proving that the Commissioner's decision not to issue him a license was unreasonable.

NONFINAL ORDER

In consideration of the foregoing, Findings of Fact and the Conclusions of Law as stated, the ALJ now recommends that the Commissioner AFFIRM her decision to deny consent for Petitioner to engage in the business of insurance in Indiana, which ultimately denies Petitioner's application for a resident producer license.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner of the Department of Insurance on May 25, 2023. This order is not final. This matter is now before the ultimate authority, the Commissioner of the Department of Insurance who has the final authority over this matter and shall review this Nonfinal Order and issue a final order to all parties.

To preserve an objection to this order for judicial review, the Parties must object to the order in writing that: 1) Identifies the basis for the objection with reasonable particularity; and 2) Is filed with the ultimate authority, the Commissioner of the Department of Insurance, within fifteen (15) days from the date of this Order. Indiana Code 4-21.5-3-29. For provisions on how to compute days see Ind. Code § 4-21.5-3-2.

Any questions regarding this matter may now be directed to Dawn Bopp at dbopp@idoi.in.gov.

So Ordered: May 25, 2023.



Carrie T. Ingram
Administrative Law Judge
Indiana Office of Administrative Law Proceedings

Distribution:

Petitioner: Timothy Scott Harris served by email at tim@agentsforhope.com

Respondent: Department of Insurance served by email to Attorney Samantha Aldridge at saldridge@idoi.in.gov

Ultimate Authority: Commissioner of the Department of Insurance served by email at DBopp@idoi.in.gov

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

DOI CAUSE NO.: 221951-AD22-1101-113
ADMINISTRATIVE CAUSE NO.: DOI-2212-002513

IN THE MATTER OF:)
)
Timothy Scott Harris)
7291 E Spring Lake Rd)
Mooreville, IN 46158)
)
Petitioner.)
)
Type of Agency Action: Enforcement)
)
License Application #: 994599)

**PROPOSED FINDINGS OF FACT, CONCLUSIONS OF LAW
AND RECOMMENDED ORDER**

The Administrative Law Judge ("ALJ"), having considered and reviewed all the evidence, will now render a decision in the matter of Timothy Scott Harris ("Petitioner"). This matter came to be heard by the ALJ Brian D. Hahn on January 31, 2023 at 9:00 a.m. via audio conferencing at the Indiana Department of Insurance, 311 West Washington Street, Indianapolis, Indiana.

The Enforcement Division of the Indiana Department of Insurance ("Department") was represented by counsel, Samantha Aldridge. Petitioner appeared telephonically and without counsel. Testimony was heard and exhibits were received into evidence.

Based upon the evidence presented at said hearing, the ALJ now makes the following Findings of Fact and Conclusions of Law and issues the Recommended Order.

FINDINGS OF FACT

1. Petitioner applied for resident insurance producer license on August 24, 2022. (Hearing Transcript p. 17)
2. Petitioner submitted his application for Written Consent to Engage in the Business of Insurance Pursuant to 18 USC § 1033 and 1034 ("1033 Waiver") on or about September 28, 2022. (Department's Exhibit 2)
3. Denial of the 1033 waiver was ordered on November 10, 2022. (Department's Exhibit 1).
4. Preliminary Administrative Order and Notice of License denial was issued November 22, 2022.
5. Hearing was held on January 31, 2023 regarding Petitioner's license and waiver status.
6. On or about August 2, 2018, Petitioner plead guilty to and was convicted of Domestic Battery Resulting in Serious Bodily Injury, a level 5 felony, and auto theft, a level 6 felony. (Department's Exhibits 3,4; Hearing Transcript p. 17, 31)
7. Petitioner's felony auto theft conviction requires a 1033 waiver in order for Petitioner to be licensed as an insurance producer in the State of Indiana. (Transcript p. 31)
8. The victim of Petitioner's battery resulting in serious bodily injury is Petitioner's mother with whom Petitioner was living at the time of the attack. (Transcript p. 17, 18)
9. Petitioner admitted no exhibits at the hearing.
10. The Department admitted four (4) exhibits at the hearing. Department's Exhibit 1 is the Petitioner's 1033 Wavier denial letter. Department's Exhibit 2 is Petitioner's 1033 Waiver

application. Department's Exhibit 3 is Petitioner's Criminal Case History from Morgan County Case 55D03-1803-F5-000321. Department's Exhibit 4 is the Judgment and Order RE: Sentencing in Morgan County Case 55D03-1803-F5-000321.

11. Conclusions of Law that can be adopted as Findings of Fact are hereby incorporated herein as such.

CONCLUSIONS OF LAW

1. The Commissioner of the Indiana Department of Insurance ("Commissioner") has jurisdiction over both the subject matter and the parties to this action.

2. This hearing was held in compliance with the Administrative Orders and Procedures Act of the Indiana Code.

3. Indiana Code § 27-1-15.6-12(b) states that the Commissioner refuse to issue an insurance producer license, due to a number of factors.

4. Indiana Code § 27-1-15.6-12(b)(6) allows the Commissioner to refuse to issue an insurance producer's license for having been convicted of a felony.

5. 18 USCS § 1033 requires any individual who has been convicted of any criminal felony involving dishonesty or a breach of trust secure the consent of the Commissioner to engage in the business of insurance in Indiana.

6. Petitioner's August 2, 2018 Battery Resulting in Serious Bodily Injury, Level 5 Felony and Auto Theft, Level 6 Felony convictions are a violation of Indiana Code § 27-1-15.6-12(b)(6).

7. Petitioner's August 2, 2018 Auto Theft, Level 6 Felony conviction is a felony conviction for dishonesty requiring waiver under 18 USCS § 1033 for Petitioner to engage in the business of insurance in Indiana.

8. Indiana Code § 4-21.5-3-14(c) states that the person requesting an agency take action has the burden of persuasion and the burden of going forward. Here, Petitioner is requesting that the Department issue him a resident producer license and 1033 waiver and, therefore, Petitioner bears the burden.

9. Pursuant to Indiana Code § 27-1-27-7.1(c), a hearing was held to determine the reasonableness of the Commissioner's decisions. Petitioner failed to meet his burden of proving the Commissioner's decisions were unreasonable.

10. Findings of Fact that can be adopted as Conclusions of Law are hereby incorporated herein as such.

RECOMMENDED ORDER

With the Findings of Fact and the Conclusions of Law as stated, the Administrative Law Judge now recommends to the Commissioner the following:

1. Petitioner's 18 USCS § 1033 waiver denial shall be AFFIRMED.
2. Petitioner's resident producer license application #994599 denial shall be AFFIRMED.

ALL OF WHICH IS ADOPTED by the Administrative Law Judge and recommended to the Commissioner this _____ day of _____, 2023.

Brian D. Hahn
Administrative Law Judge

Distribution:

Timothy Scott Harris
7291 E Spring Lake Rd
 Mooresville, IN 46158

Samantha Aldridge, Attorney
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, IN 46204

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

BEFORE THE INDIANA
COMMISSIONER OF INSURANCE

CAUSE NO.: 21951-AD22-1101-113

IN THE MATTER OF:

Timothy Harris
7291 E Spring Lake Rd
Mooresville, IN 46158

Applicant.

Type of Agency Action: Enforcement

License Application #: 994599

FILED

NOV 22 2022

STATE OF INDIANA
DEPT. OF INSURANCE

PRELIMINARY ADMINISTRATIVE ORDER
AND NOTICE OF LICENSE DENIAL

The Indiana Department of Insurance, pursuant to the Indiana Administrative Orders and Procedures Act, Indiana Code § 4-21.5-1 *et seq.* and Indiana Code § 27-1-15.6-12, hereby gives notice to Timothy Harris ("Applicant") of the following Administrative Order:

1. Applicant filed an application for nonresident producer licensure with the Commissioner of the Indiana Department of Insurance ("Commissioner") on August 24, 2022.
2. Before approving an application, the Commissioner must find that the applicant has met specific requirements under Indiana Code § 27-1-15.6-6 and Indiana Code § 27-1-15.6-12.
3. Indiana Code § 27-1-15.6-12(b)(6) provides, in part, that the Commissioner may refuse to issue an insurance producer's license for having been convicted of a felony.
4. Following a review of public records, and a review of materials submitted by Applicant in support of his application, the Commissioner, being fully advised, now hereby notifies Applicant that he has not fully met the requirements of licensure as stated by Indiana Code § 27-1-15.6-12(b)(6) due to applicant being convicted on August 2, 2018, of Battery, a Level 5 Felony, and Auto Theft, a Level 6 Felony, in the State of Indiana.

5. Indiana Code § 27-1-15.6-12(d) provides that the applicant may, not more than sixty-three (63) days after notice of denial of the application is mailed, make written demand to the Commissioner for a hearing before the Commissioner to determine the reasonableness of the Commissioner's action.
6. This is considered an administrative action by the Indiana Department of Insurance. If you choose to appeal this administrative action, please follow the aforementioned instructions. Subsequently, after the Department has received your written request for a hearing, the State of Indiana Office of Administrative Law Proceedings ("OALP") will assign an administrative law judge to preside over this matter, and you will receive more information from OALP to begin the administrative process.

IT IS THEREFORE ORDERED that Applicant's request for licensure is hereby **DENIED** pursuant to Indiana Code § 27-1-15.6-12(b)(6) due to Applicant having been convicted of a felony. Applicant may reapply for licensure not less than one (1) year from the date of this order.

11.22.2022
Date Signed

Amy L. Beard
Amy L. Beard, Commissioner
Indiana Department of Insurance

Distribution to:

Timothy Harris
7291 E Spring Lake Rd
Mooresville, IN 46158

Samantha Aldridge, Attorney
ATTN: Sara Tolliver, Investigator
Indiana Department of Insurance
311 W. Washington St., Suite 103
Indianapolis, IN 46204
317 234-8687, fax 317 234-2103



STATE OF INDIANA

ERIC J. HOLCOMB, GOVERNOR

Indiana Department of Insurance

Amy Beard, Commissioner
311 W. Washington Street, Suite 103
Indianapolis, Indiana 46204-2787
Telephone: 317-232-2385
Fax: 317-232-5251
Website: in.gov/idoi

FILED

NOV 10 2022

STATE OF INDIANA
DEPT. OF INSURANCE

November 7, 2022

Timothy Harris
7291 E Spring Lake Rd
Mooresville, IN 46158

**Re: Consent to participate in the business of insurance under 18 U.S.C. 1033
Federal Violent Crime Control and Law Enforcement Act of 1994
File #: E-21951**

Mr. Harris:

The Commissioner of Insurance of the State of Indiana, having been advised of the August 2, 2018, conviction for Domestic Battery Resulting in Bodily Injury, a Level 5 Felony, and Auto Theft, a Level 6 Felony, of Timothy Harris; and, pursuant to 18 U.S.C. 1033(e)(2), **DOES HEREBY DENY CONSENT TO Timothy Harris's** position in the insurance business in Indiana, in the position of insurance agent for Agents for Hope, LLC.

You may, not more than fifteen (15) days after notice of denial of your application, make a written demand to the Commissioner for a hearing before the Commissioner to determine the reasonableness of the Commissioner's action. The hearing will be set within thirty (30) days of receiving the request for a hearing.

Regards,

Amy L. Beard
Commissioner
Indiana Department of Insurance

Date signed

11/10/22

ACCREDITED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS

AGENCY SERVICES
317-232-2389

COMPANY COMPLIANCE
317-232-3495

CONSUMER SERVICES
317-232-2395/1-800-622-4461

FINANCIAL SERVICES
317-232-2390

MEDICAL MALPRACTICE
317-232-2402

COMPANY RECORDS
317-232-5692

STATE HEALTH INSURANCE PROGRAM
1-800-452-4800